

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION



In re: x  
Chapter 11  
CIRCUIT CITY STORES, INC., et al., .  
Case No 08-35653 (KRH)  
Debtors. .  
x Jointly Administered

**RESPONSE TO LIQUIDATING TRUST'S FORTY-THIRD OMNIBUS OBJECTION TO  
LANDLORD AND CONTRACTOR CLAIMS (REDUCTION OF CERTAIN  
PARTIALLY INVALID CLAIMS, RECLASSIFICATION OF CERTAIN  
MISCLASSIFIED CLAIMS, DISALLOWANCE OF CERTAIN INVALID CLAIMS,  
DISALLOWANCE OF CERTAIN LATE FILED CLAIMS, AND DISALLOWANCE OF  
CERTAIN AMENDED CLAIMS)**

Berkadia Commercial Mortgage, LLC, ("Berkadia") successor-in- interest to Capmark Finance, Inc. on behalf of Bank of America National Association as Successor by Merger to LaSalle Bank National Association fka LaSalle National (the "Claimholder"), by and through its counsel Bryan Cave LLP, hereby files this Response to Liquidating Trust's Forty-Third Omnibus Objection to Landlord and Contractor Claims (Reduction of Certain Partially Invalid Claims, Reclassification of Certain Misclassified Claim, Disallowance of Certain Invalid Claims, Disallowance of Certain Late Filed Claims, and Disallowance of Certain Amended Claims)(the "Objection"), and states as follows:

1. The Bankruptcy Trustee has objected to the proof of claim number 9707 (the "Claim") filed by Claimholder alleging that the liabilities in claim 9707 are the same underlying liabilities included on claim 9407, and thus the proper claimant is unclear.

2. Claimholder held a mortgage on the real property located at 5624 Johnston St., Lafayette, LA 70503. The mortgagor on the property, CC-Lafayette LLC, a Minnesota limited liability company (the "Borrower") leased the property to Circuit City Stores, Inc. ("Circuit

City”) pursuant to a written leased dated February 22, 1995 (the “Lease”). The Lease and the rents thereunder were assigned by the Borrower to its lender in an Absolute Assignment of Leases and Rents, effective as of February 27, 1995 (the “Assignment of Leases and Rents”). The Assignment of Leases and Rents was subsequently conveyed to Claimholder.

3. The Assignment of Leases and Rents and the Lease are all attached as exhibits to Claimholders proof of claim 9707.

4. Circuit City rejected the Lease.

5. Claimholder is the proper claimant for the liabilities underlying proof of claims 9407 and 9707.

6. In addition to the fact that Circuit City rejected the Lease, the Assignments of Leases and Rents were conveyed to Claimholder.

7. Further, Claimholder has already foreclosed on and sold the property that is the subject of proof of claim 9707.

8. Accordingly, Claimholder is the proper claimant.

WHEREFORE, Claimholder respectfully requests that the Court (a) overrule the Objection as it relates to the Claim; (b) allow the Claim as provided in Claimholder’s proof of claim; and (c) grant Claimholder such other and further relief as this Court deems appropriate under the circumstances.

Dated: June 24, 2012

BRYAN CAVE LLP

By:/s/ Philip J. Meitl

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AND

By:/s/ Keitha M. Wright

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Attorneys for Claimholder

**CERTIFICATE OF SERVICE**

The undersigned hereby states that on the 2<sup>nd</sup> day of July, 2012, a true and correct copy of the above foregoing instrument was sent to:

Clerk of the Bankruptcy Court  
United States Bankruptcy Court  
701 East Broad Street-Room 4000  
Richmond, VA 23219

/s/ Phillip J. Meitl